

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Informal Complaints Filed By	)	
Independent Payphone Service	)	File Nos. IC-98-42853, <i>et al.</i>
Providers Against Various	)	
Local Exchange Carriers	)	
Seeking Refunds Of End User	)	
Common Line Charges	)	

**ORDER**

**Adopted: October 1, 2004**

**Released: October 4, 2004**

By the Deputy Chief, Enforcement Bureau:

1. In this Order, we extend the deadline for converting End User Common Line (“EUCL”) informal complaints that are covered by the Common Carrier Bureau’s Order of September 10, 1999,<sup>1</sup> into formal complaints.<sup>2</sup> In these informal complaints, independent payphone providers (“IPPs”) allege that the defendant local exchange carriers (“LECs”) improperly assessed EUCL charges, in violation of the Commission’s rules and sections 201(b) and 202(a) of the Communications Act, as amended (the “Act”).<sup>3</sup> In the *First Waiver Order*, the Common Carrier Bureau determined that the period for converting the informal complaints to formal complaints would be extended to three months after a final nonappealable order had been entered in a pending complaint proceeding.<sup>4</sup> For reasons of administrative efficiency and to facilitate ongoing settlement discussions, the Enforcement Bureau further extended the deadline for conversion of these informal complaints into formal complaints.<sup>5</sup> Pursuant to the most recent Enforcement Bureau order,

<sup>1</sup> *Informal Complaints Filed By Independent Payphone Service Providers Against Various Local Exchange Carriers Seeking Refunds of End User Common Line Charges*, Order, 16 FCC Rcd 3669 (CCB 1999) (“*First Waiver Order*”).

<sup>2</sup> Ordinarily, section 1.718 requires that a formal complaint must be filed with six months of the carrier’s response to the informal complaint if the formal complaint is to relate back to the filing of the informal complaint. *See* 47 C.F.R. § 1.718(a).

<sup>3</sup> 47 U.S.C. §§ 201(b) and 202(a); 47 C.F.R. §§ 69.1 *et seq.*

<sup>4</sup> *See First Waiver Order*, 16 FCC Rcd at 3672, ¶ 8. A final nonappealable order has been entered in that proceeding. *See Verizon Telephone Companies, et al. v. FCC*, 269 F.3d 1098 (D.C. Cir. 2001).

<sup>5</sup> *See Informal Complaints Filed By Independent Payphone Service Providers Against Various Local Exchange Carriers Seeking Refunds of End User Common Line Charges*, Order, 17 FCC Rcd 2115 (EB 2002) (“*Second Waiver Order*”); *Informal Complaints Filed By Independent Payphone Service Providers Against Various Local Exchange Carriers Seeking Refunds of End User Common Line Charges*, Order, 17 FCC Rcd 14759 (EB 2002) (“*Third Waiver Order*”); *Informal Complaints Filed By Independent Payphone Service Providers Against Various Local Exchange Carriers Seeking Refunds of End User Common Line Charges*, Order, 18 FCC Rcd 12047 (EB 2003) (“*Fourth Waiver Order*”); *Informal Complaints Filed By Independent Payphone Service Providers Against Various Local Exchange Carriers Seeking Refunds of End User Common Line Charges*, Order, 19 FCC Rcd 9066 (EB 2004) (“*Fifth Waiver Order*”).

informal complaints were required to be converted by October 28, 2004, to benefit from the relation back rule outlined in section 1.718.<sup>6</sup>

2. On November 19, 2002, the Commission ruled on certain liability issues in thirteen formal complaints that raised many issues similar to those raised in the pending informal complaints.<sup>7</sup> The parties to the thirteen formal complaints petitioned the United States Court of Appeals for the District of Columbia to review the Commission's *Liability Order*,<sup>8</sup> and on April 30, 2004, the Court issued an opinion affirming in all respects the Commission's *Liability Order*.<sup>9</sup> We have been apprised by counsel for a number of complainants that a substantial number of informal complaints have settled since the Court of Appeals decision and that settlement negotiations are underway with hundreds of defendant LECs at this time. Counsel for complainants and counsel for several defendants requested further time in which to conclude these negotiations.<sup>10</sup> In order to ensure that all parties have sufficient time to pursue an informal resolution of these disputes prior to requiring the filing of formal complaints with the Commission, we now extend to **January 21, 2005** the filing deadline for the conversion of these EUCL informal complaints into formal complaints. Because this extension will facilitate the possible settlement of these numerous claims, we are satisfied that our action today serves the public interest.

3. ACCORDINGLY, IT IS ORDERED, pursuant to sections 4(i), 4(j), and 208 of the Communications Act, as amended, 47 U.S.C. §§ 154(i), 154(j), 208, section 1.3 of the Commission's rules, 47 C.F.R. § 1.3, and the authority delegated by sections 0.111 and 0.311 of the Commission's rules, 47 C.F.R. §§ 0.111 and 0.311, that section 1.718(a) of the Commission's rules, 47 C.F.R. § 1.718(a), IS HEREBY WAIVED, with regard to the IPP EUCL informal complaints described herein and the deadline for the conversion and filing of these informal complaints into formal complaints is hereby extended to January 21, 2005. This waiver is effective as of the release of this Order.

FEDERAL COMMUNICATIONS COMMISSION

Christopher N. Olsen  
Deputy Chief, Enforcement Bureau

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<sup>6</sup> *Fifth Waiver Order*, 19 FCC Rcd 9066 (EB 2004).

<sup>7</sup> See *Communications Vending Corporation of Arizona, Inc., et al. v. Citizens Communications Company f/k/a Citizens Utility Company and Citizens Telecommunications Company d/b/a Citizens Telecom, et al.*, Memorandum Opinion and Order, 17 FCC Rcd 24201 (2002) ("*Liability Order*").

<sup>8</sup> *Communications Vending Corporation of Arizona, Inc., et al. v. FCC, et al.*, No. 02-1364, consolidated with No. 03-1010, 03-1012 (D.C. Cir. filed Nov. 26, 2002, Jan. 14, 2003, Jan. 17, 2003).

<sup>9</sup> *Communications Vending Corporation of Arizona, Inc., et al. v. Federal Communications Commission, et al.*, No. 02-1364, 2004 WL 911769 (D.C. Cir. Apr. 30, 2004).

<sup>10</sup> See Letter From Katherine J. Henry, counsel for Complainants, to Radhika Karmarkar and Rosemary McEnery, Market Disputes Resolution Division, Enforcement Bureau, File Nos. IC-98-42853, *et al.* (dated September 30, 2004).